

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

October 25, 2007

Garvey C. Wood
Secretary/Treasurer
Loma T.V. Club
Post Office Box 207
Loma, Montana 59460

Re: Loma T.V. Club
Request for Waiver of Fiscal Year 2003
Regulatory Fee and Late Fee
Fee Control No. RROG-08-00009821

Dear Mr. Wood:

This is in response to your Letter dated September 23, 2007, requesting waiver of the fiscal year (FY) 2003 regulatory fee and late penalty for translator station K11AD, which is controlled by the Loma T.V. Club (Club) of Loma, Montana.¹ On August 31, 2007, we denied your previous waiver request for insufficient showing that the Club meets the criteria for waiver.² Our records reflect that the FY 2003 regulatory fee and late penalty, which total \$456.25, have not been paid. As indicated below, your request is granted, and you do not owe this amount.

In your Letter, you state that the Club is non profit, receives no tax dollars, and "is not served by a taxing improvement district or any other type of district."³ You also state that the Club is not a corporation, and that all money comes directly from donations.⁴ You further state that the Club owns neither the building nor the land where K11AD is located.⁵ In supplementary information provided on October 22, 2007, you indicate that K11AD is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station.⁶

¹ Letter from Garvey C. Wood, Loma T.V. Club (September 23, 2007) (Letter).

² Letter from Mark Stephens, FCC (August 31, 2007).

³ Letter.

⁴ *Id.*

⁵ *Id.*

⁶ Facsimile from Garvey C. Wood, Loma T.V. Club (October 22, 2007).

As we advised you previously, in implementing the regulatory fee program, the Commission stated that it would waive its regulatory fees for any community-based translator station upon a showing that the station:

(1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from the members of the community served for support.⁷

The licensee bears the burden of documenting its eligibility for the waiver; otherwise, the regulatory fee is due. *Id.* Based on the information you submitted, K11AD meets the criteria for the type of translator operation for which the Commission will waive regulatory fees. We therefore grant your request on behalf of the Club for waiver of the regulatory fee and penalty for FY 2003.

Please note that, as licensee of K11AD, the Club is under a continuing obligation to report to the Commission any changes that could affect the station's qualifications for this fee exemption, such as a change in its operations in accordance with the requirements set forth above. You should retain this letter and submit a copy of it with any future correspondence with the Commission concerning regulatory fees for K11AD.

If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

⁷ *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759, 12761, para. 16 (1995).

RR06-08-0000982

Loma T.V. Club
P.O. Box 207
Loma, Montana 59460

Federal Communications Commission
Washington D.C. 20554

23 September 2007

Fax: 202-418-2843

OCT 01 2007

Dear People,

BY: _____

To review, the Loma T.V. Club has been in existence for something over 50 years. It began as a film club before the advent of television here. The clubs two, Tepco 1 watt television translators provide services to the village of Loma in north central Montana. At last count there were 76 people living here. Our village lies in the Marias River valley 203 feet below the surrounding plains and 52 miles from Great Falls. Loma was never large enough to incorporate into a town or city in Montana. We do not get a good visual or audio signal without the translators. Those stations in Great Falls are KFBB and KRTV. We have operated the KRTV translator as K07AM, and the KFBB translator as K11AD through FCC licenses.

The Loma T.V. Club is non profit. The Club receives no tax dollars. It is not served by a taxing improvement district or any other type of district. The club is not a corporation. All money comes directly from donations. I understand a determination has been made which will cost the club for a licensing fee for one of our translators, even though all fees were waived when the other translator was licensed. The club does not own the building housing the translators. It is owned by the local fire company, also completely volunteer and also not receiving any tax monies. The club owns the two translators and the antennas. A local farmer owns the land the building sets on. We do not have \$456.25 and I am sure I could not raise this amount from our so-called members. It would be a hardship for them to come up with \$20, much less \$40 each.

I sent you a list of our income and expenses for 2006. This was apparently not sufficient. Enclosed please find bank statements from Security Bank in Fort Benton from 2003 which show the minimal activity and funds of the club. We do dispute these or any fees which may be due or would be charged a for profit organization. We just are not one, never have been, and never will be. Thank you for your time and consideration.

Sincerely,



Garvey C. Wood, Secretary/Treasurer
Loma T.V. Club

encl.

cc: Senator Jon Testor

Adm

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

SEP 21 2007

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert, Esq.
2120 N. 21st Road
Arlington, VA 22201

Re: Legacy Communications Corp. ✓
Request for Refund of Application Filing Fees
Fee Control No. 0706228350898456

Dear Mr. Alpert:

This letter responds to your request filed July 10, 2007 (*Request*), on behalf of Legacy Communications Corp. (Legacy) for a refund of the \$1,170.00 fees associated with an application to transfer control of various AM radio station licenses from Legacy to Legacy Media Corporation (Legacy Media) (*Application*).¹ For the reasons set forth below, we grant your request.

You recite that “[a]n FCC Form 316 was filed to effectuate the transfer of control of several licensees [associated with File No. BTC-20070622AER].”² You state that “[t]he Media Bureau has requested that the transaction be refiled to allow for each licensee to be reflected on separate applications.”³ You state that “[t]his has . . . now been done, and the original application has been dismissed.”⁴

Our records reflect that Legacy filed the *Application* on June 22, 2007, along with an application fee of \$1,170.00, which the Commission dismissed on July 5, 2007. Commission staff subsequently informally advised Legacy to file a separate transfer of control application for each of the nine different stations and licensees at issue.⁵ As

¹ Specifically, the *Application* requested a transfer of control of AM radio stations KNFL, KPTO, KENT, KITT, KOGN, KBSP, KIFO, KDAN, and KTNP (the *Stations*) from Legacy to Legacy Media.

² *Request* at 1.

³ *Id.*

⁴ *Id.*

⁵ The licensees were Radio 1400, LLC, Radio 1340, LLC, Radio 1240, LLC, AM Radio 1400, Inc., Radio 1450, LLC, TriState Media Corp., AM Radio 1470, Inc., AM Radio 1490, Inc., and AM Radio 1440, Inc., and they were the licensees of AM radio stations KTNP, KBSP, KDAN, KENT, KIFO, KITT, KNFL, KOGN, and KPTO, respectively. The licensees were wholly-owned subsidiaries of Legacy.

advised, nine separate transfer of control applications were filed on July 10, 2007, along with a \$130.00 fee for each of the nine applications, for a total fee of \$1,170.00.⁶ The Commission has discretion to waive filing fees upon a showing of good cause and a finding that the public interest will be served thereby.⁷ We construe our waiver authority under section 8 of the Communications Act, 47 U.S.C. §158(d)(2), narrowly and will grant waivers on a case-by-case basis to specific applicants upon a showing of “extraordinary and compelling circumstances.”⁸

In view of the circumstances recited above, including the fact that five days after the *Application* was dismissed, nine separate applications were filed along with additional filing fees of \$1,170.00, we find that the \$1,170.00 fees paid with the original renewal applications were effectively an “overpayment” under section 1.1113 of the Commission’s rules, 47 C.F.R. §1.1113. We therefore conclude that a refund of the original application filing fees is appropriate.⁹ We therefore grant your request for a refund of the \$1,170.00 filing fees associated with the *Application*.

A check, made payable to the maker of the original check, and drawn in the amount of \$1,170.00, will be sent to you at the earliest practicable time. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



 Mark Stephens
Chief Financial Officer

⁶ The nine applications were granted on July 20, 2007.

⁷ See 47 U.S.C. §158(d)(2); 47 C.F.R. §1.1117(a); *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 5 FCC Rcd 3558, 3572-73 (1990).

⁸ See *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 958 (1987); *Sirius Satellite Radio, Inc.*, 18 FCC Rcd 12551 (2003).

⁹ See 47 C.F.R. §§1.1108 and 1.1113(a).

The Law Office of

Dan J. Alpert

2120 N. 21st Rd.
Arlington, VA 22201

(703) 243-8690

(703) 243-8692 (FAX)

July 9, 2007

RECEIVED - FCC

JUL 10 2007

Federal Communications Commission
Bureau / Office

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
425 12th St., N.W.
Washington, DC 20554

Re: File No. BTC-20070622AER

Dear Mr. Fishel:

A refund hereby is requested of the \$1,170.00 paid in conjunction with the above-referenced application. An FCC Form 316 was filed to effectuate the transfer of control of several licensees. The Media Bureau has requested that the transaction be refiled to allow for each licensee to be reflected on separate applications. This has been now been done, and the original application has been dismissed. See Attachment 1.

The remittance ID Number and Authorization Number of the original payment are shown in Attachment 2. Prompt refund respectfully is requested.

Respectfully submitted,


Dan J. Alpert

cc: Konrad Herling

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 23 2007

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert
Counsel for KCFA, Inc.
2120 N. 21st Road
Arlington, VA 22201

Re: K283AY, West Point, California
Request for Waiver and Refund of Fiscal Year 2007
Regulatory Fee
Fee Control No. 0709059365894155

Dear Mr. Alpert:

This is in response to your request for waiver and refund of the Fiscal Year (FY) 2007 regulatory fee filed on behalf of KCFA, Inc., licensee of Station K283AY, West Point, California.¹ You maintain that K283AY is currently dark.² As indicated below, your request is granted.

In support of your request, you attach a letter dated August 1, 2007 from H. Taft Snowdon, Supervisory Attorney in the Audio Division of the Media Bureau, granting K283AY Special Temporary Authority (STA) to remain silent for a period not to exceed December 6, 2007.³

In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12a762 (1995), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.

Our records indicate that K283AY has been dark since December 6, 2006. Thus, your request to waive K283AY's FY 2007 regulatory fee is granted. Further, our records indicate that we received a timely payment of K283AY's FY 2007 regulatory fee on September 5, 2007. Accordingly, we will refund K283AY's FY 2007 regulatory fee payment. We will forward a check in the amount of \$345.00 as soon as practicable.

¹ Waiver and Refund Request from Dan J. Alpert, Counsel for KCFA, Inc., filed September 18, 2007 (Request) at 1.

² *Id.*

³ Attachment to Request, Letter from H. Taft Snowdon granting STA, dated August 1, 2007 (Attachment) at 1.

Dan J. Alpert

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As a reminder, K283AY's STA notes that, as a matter of law, K283AY's license will automatically expire if broadcast operations do not commence within 12 months from the date that the station ceased broadcasting.⁴ See Section 312(g) of the Communications Act, 47 U.S.C. § 312(g). Therefore, this regulatory fee waiver applies only to FY 2007.

If you have any questions concerning this matter please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a stylized flourish at the end.

Mark Stephens
Chief Financial Officer

⁴ *Id.* at 1-2.

9677 RECEIVED

The Law Office of
Dan J. Alpert
2120 N. 21st Rd.
Arlington, VA 22201
DJA@COMMLAW.TV

2007 SEP 25 P 12: 23

FINANCIAL
CENTER

(703) 243-8690

(703) 243-8692 (FAX)

September 18, 2007

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

RECEIVED - FCC

SEP 18 2007

Federal Communications Commission
Bureau / Office

Re: **Station K294AW**
Arnold, CA
Facility No. 86880

Dear Mr. Fishel:

KCFA, Inc., by its attorney, hereby requests a waiver and refund of its 2007 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waivers of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

KCFA, Inc. is licensee of Facility No. 86880. The station currently is dark. See Attachment. Accordingly, a waiver of the 2007 Annual Regulatory Fee is appropriate. A refund of the \$345 fee that was timely paid respectfully is requested.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

Counsel for KCFA, Inc.

9677

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 23 2007

OFFICE OF
MANAGING DIRECTOR

Lauren A. Colby
Attorney at Law
Post Office Box 113
Frederick, Maryland 21705-0113

Re: NEW FM, Glenville, West Virginia
Request for Refund of Application Fee
Fee Control No. 0705018195886813

Dear Mr. Colby:

This responds to your Letter filed on June 7, 2007 on behalf of Della J. Woofter, winning bidder of a license for a new FM broadcast station in Glenville, West Virginia (Station), requesting a refund of the filing fee for an application for a construction permit for the Station.¹ Our records reflect that the filing fee in the amount of \$3,210.00 has been paid. For the reasons set forth below, your request is denied.

In your Letter, you state that you have researched the Commission's rules and that, as a result, you believe that pursuant to section 1.2107(c), no filing fee is required for your application for a construction permit on Ms. Woofter's behalf.² Section 1.2107(c) states, among other things, that "[n]otwithstanding any other provision in title 47 of the Code of Federal Regulations to the contrary, high bidders need not submit an additional application filing fee with their long-form applications."³ You further state that you paid the application filing fee of \$3,210.00 "out of an excess of caution" after being advised to do so by Commission staff.⁴

The Commission has adopted rules specifically governing broadcast auctions such as the auction in which Ms. Woofter was the winning bidder for the Station. To this end, the Commission has determined, for each aspect of a broadcast auction, whether its general Part 1 auction rules, or some different rule, will apply.⁵ Accordingly, and pertinent here, in a 1998 Order, the Commission determined that while the Part 1 auction rules would

¹ Letter from Lauren A. Colby, Attorney at Law, to Anthony Dale, Managing Director, FCC (June 7, 2007) (Letter).

² Letter at 1.

³ 47 C.F.R. § 1.2107(c).

⁴ Letter at 1.

⁵ See *Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, Notice of Proposed Rulemaking, 12 FCC Rcd 22363, 22369 para., 11 (1997) (proposing to conduct broadcast auction pursuant to general Part 1 rules, subject to modifications in those rules adopted in rulemaking proceeding).

Lauren A. Colby

2.

govern certain aspects of broadcast auctions, "[t]he statutorily established application fees will apply to the long-form applications filed by winning bidders."⁶ Pursuant to the Commission's express determination, we therefore deny your request.

If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", written over a horizontal line.

Mark Stephens
Chief Financial Officer

⁶ *Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, First Report and Order, 13 FCC Rcd 15920, 15983 para. 164 (1998) (emphasis added).

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0705018195886813

TO WIRELESS TELEPHONE
FILE # 8818

LAUREN A. COLBY
ATTORNEY AT LAW
POST OFFICE BOX 113
FREDERICK, MARYLAND 21705-0113

2007 JUN 19 A 6:57

10 EAST FOURTH STREET
FREDERICK, MARYLAND 21701-5257

June 7, 2007

TELEPHONE
301-663-1086
FACSIMILE
301-695-8734
E-MAIL
lac@lcolby.com

Mr. Anthony Dale
Managing Director
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RECEIVED - FCC

JUN - 7 2007

Federal Communications Commission
Bureau / Office

Dear Mr. Dale:

On May 1, 2007, acting on behalf of my client ~~Della L. Woerner~~, the winning bidder at the recent FM Auction, I filed an application for a Construction Permit for a new ~~FM Broadcast Station at Glenville, West Virginia~~. At the time, the question arose as to whether or not a filing fee would be required. I researched the rules and consulted 47 C.F.R. Section 1.2107(c). That Section reads, in pertinent part, as follows:

"A high bidder that meets its down payment obligations in a timely manner must, within ten (10) business days after being notified that it is a high bidder, submit an additional application (the "long-form application") pursuant to the rules governing the service in which the applicant is the high bidder. Notwithstanding any other provision in title 47 of the Code of Federal Regulations to the contrary, high bidders need not submit an additional application filing fee with their long-form applications..."

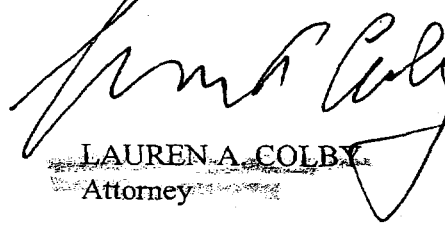
Based upon the above referenced rule, I determined that no filing fee would be required. However, out of an excess of caution, I conferred with a member of the Federal Communications Commission staff by telephone. She advised that, in her opinion, a filing fee would be required or the application would not be accepted. Therefore, I paid a filing fee of Three Thousand Two Hundred and Ten Dollars (\$3,210.00). A copy of the government confirmation is attached for your convenience.

An agency is, however, bound by its own rules *Service v. Dulles*, 354 U.S. 363 (1957). In this case, the pertinent rule is very clear: the high bidder at a public auction is not required to pay a filing fee for the application for the construction permit.

Mr. Anthony Dale
June 7, 2007
Page 2 of 2

Therefore, I respectfully request that you refund the amount of ~~\$3,210.00~~ to my client Della J. Woofter. You may make out the check to her but send it to this office and I will forward it to the client.

Sincerely,



LAUREN A. COLBY
Attorney

Cc: Ms. Della J. Woofter

TNN #

Adams

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

SEP 21 2007

OFFICE OF
MANAGING DIRECTOR

Charles R. Naftalin, Esq.
Holland & Knight LLP
2099 Pennsylvania Ave., N.W.
Suite 100
Washington, D.C. 20006

Re: Mapale LLC ✓
Station WGEN-TV, Key West, FL
FY 2006 Regulatory Fees
Fee Control No. 0609198835045009

Dear Counsel:

This is in response to your request dated September 18, 2006 (*Request*) for a refund of the regulatory fees for Fiscal Year (FY) 2006, filed on behalf of Mapale LLC (Mapale), licensee of station WGEN-TV, Key West, Florida, and eight additional low power television and translator stations serving south Florida (the Stations), on the basis of financial hardship.¹ Our records reflect that you have paid the total FY 2006 regulatory fees. For the reasons stated herein, we deny your request.

You recite that Mapale acquired the Stations on March 31, 2006, and “launche[d] its innovative Spanish-language network for the Miami, Florida DMA [on] September 18, 2006.”² You assert that Mapale’s losses in 2006 and projected losses in 2007 are “in part due to its significant investment in live, local programming.”³ You contend that the Commission granted the station’s previous licensee a waiver of FY 2005 regulatory fees “based upon 2005 losses . . . [that were] approximately half of the losses exhibited by Mapale in this [r]equest.”⁴ In support of your request, you submit a document entitled “Mambo and Mapale Profit and Loss: January 2006 – December 2007,” which is a combined profit and loss statement for Mapale and Mambo LLC (Mambo), a programmer with which Mapale has a time brokerage agreement,⁵ for January 2006

¹ You state that in addition to WGEN-TV, Mapale is the licensee of WDLP-CA, WGEN-LP, W39AC, W38AA, W63AL, W65AP, W54BB and W64AN. *Request* at 1, fn.1.

² *Id.* at 1.

³ *Id.* at 2.

⁴ *Id.*

⁵ A time brokerage agreement is a type of contract that generally involves the sale by a licensee of discrete blocks of time to a broker that then supplies the programming to fill that time and sells the commercial spot advertisements that support the programming.

through December 2007 (*Combined Profit and Loss Statement*).⁶ You state that “in order to show the actual losses of the station group, Mapale had to report the financials of these two companies jointly.”⁷ You assert that if Mambo’s revenues and expenses are removed from the *Combined Profit and Loss Statement*, the loss for the 2006 calendar year would be even greater than that which is reported on the combined report.⁸ You aver that the “combined 2006-2007 actual and projected losses . . . exclude” any “funds paid to principals, . . . deductions for depreciation or amortization and . . . any similar non-cash items that do not affect ‘cash flow[.]’”⁹

In response to a request from Commission staff,¹⁰ you submitted financial documentation specific to Mapale (as opposed to the combined financial documentation for Mapale and Mambo submitted with the *Request*) to support the waiver request.¹¹ You state that “[t]he positive net revenues [reflected on the *Mapale Statement of Income*] . . . were earned under the time brokerage agreement with Mambo and from an agreement with another entity[.]”¹² You say that the regulatory fee “paid by Mapale represents more than 52 percent of Mapale’s total net revenues for 2006” and that “Mapale distributed no funds to any of its parent companies or to any of its, or their, principals, officers or directors.”¹³ You maintain that “the owners of Mapale . . . have lost . . . [money] on the enterprise” and that Mapale’s “total positive net revenues represent [a very small] . . . percent of its total assets.”¹⁴ You assert that “the Commission should not examine the

⁶ See Email from Amy Mushahwar to Joanne Wall (Dec. 27, 2006).

⁷ *Id.*

⁸ See Email from Amy Mushahwar to Joanne Wall (December 29, 2006 at 1:00 p.m.); Email from Joanne Wall to Amy Mushahwar (Dec. 29, 2006 at 12:59 p.m.); *see also* Email from Amy Mushahwar to Joanne Wall (Dec. 29, 2006 at 12:57 p.m.) (if Mambo is removed from the *Profit and Loss Statement*, “a significant share of the advertising revenue would be lost. . . . mak[ing] the financial picture . . . appear even more bleak”).

⁹ *Request* at 3.

¹⁰ See, e.g., Email from Joanne Wall to Amy Mushahwar (Jan. 4, 2007) and Email from Joanne Wall to Charles Naftalin (Mar. 2, 2007).

¹¹ See Letter from Charles R. Naftalin, Esq. to Joanne F. Wall, Esq. (June 13, 2007) (*Supplement*), Attachments (Mapale LLC Balance Sheet: December 31, 2006; Mapale Statement of Income and Member’s Equity for the Year Ended December 31, 2006 (*Mapale Statement of Income*); and Master List).

¹² See *Supplement* at 2.

¹³ *Id.*

¹⁴ *Id.*

financial circumstances of Mapale as a stand-alone operation because . . . the costs of essential programming and other necessary expenses for the Mapale stations are born [*sic*] or otherwise reimbursed by Mambo[,] . . . and the losses of the enterprise are vastly greater than the net revenues of Mapale”¹⁵ You claim that it would be “arbitrary and capricious for the Commission to consider the circumstances of Mapale in isolation from such important relevant costs which are necessary to provision of the service.”¹⁶

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a “petitioner presents a compelling case of financial hardship.”¹⁷ In reviewing a showing of financial hardship, the Commission relies upon a licensee’s cash flow, as opposed to the entity’s profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

Our review of the record, including the *Mapale Statement of Income*, reflects that Mapale earned a profit in calendar year 2006 and thus has the funds to pay the FY 2006 regulatory fee. We therefore deny Mapale’s request for waiver. In reaching this decision, we do not consider the *Combined Profit and Loss Statement* because it includes Mapale’s and Mambo’s combined income and losses and therefore does not specifically or exclusively represent the *licensee’s* (*i.e.*, Mapale’s) ability to pay the regulatory fee or otherwise illustrate whether the impact of the regulatory fee will adversely affect Mapale’s ability to serve the public as required under our regulatory fee policies.¹⁸ The fact that Mambo bears or reimburses Mapale for certain expenses associated with the

¹⁵ *Id.* at 2-3.

¹⁶ *Id.* at 3 (*citing* Letter from Mark Stephens, Chief Financial Officer, Office of Managing Director, FCC, to Marcus T. Travenia (Mar. 8, 2007) (*March 8 Decision*) (granting request for waiver of section 214 application fees because the licensee’s financial documentation indicated that “[n]o money is currently being made,” that the licensee “will not sell any services before obtaining its section 214 authorization, and [has] . . . no one to co-sign for a loan . . . [or] other sources of funds available to pay the application fee”)).

¹⁷ *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995) (*Reconsideration*).

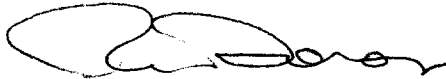
¹⁸ *See Reconsideration*, 10 FCC Rcd at 12761-62 (“we will grant a waiver [on the grounds of financial hardship] only when the impact of the regulatory fee will affect a *regulatee’s* ability to serve the public. It will be incumbent upon *each regulatee* to fully document *its* financial position and show that *it* lacks sufficient funds to pay the regulatory fees and to maintain its service to the public. (*Emphasis added.*)).

Stations is irrelevant to our decision because Mapale is financially able to pay the regulatory fees. Further, after consideration of depreciation expense included on the *Mapale Statement of Income*, which, as noted, the Commission views as funds available to pay the fees, the FY 2006 regulatory fees equal a far smaller percentage of net revenues than alleged. In any event, Mapale has sufficient cash flow to meet the fees, which is what the Commission looks to in reviewing a claim of financial hardship as opposed to the factors suggested by Mapale. Finally, your reliance upon the *March 8 Decision* does not support your request given that Mapale, unlike the licensee in the *March 8 Decision*, has sufficient cash flow from which to pay the FY 2006 regulatory fees. We therefore deny your waiver request.

You have also requested confidential treatment of the material that you submitted with your request for fee relief. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory fees is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a stylized flourish at the end.

Mark Stephens
Chief Financial Officer

FILE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

SEP 26 2007

OFFICE OF
MANAGING DIRECTOR

Will Spears, President
Pagosa Springs TV Association
Post Office Box 780
Pagosa Springs, Colorado 81147

Re: Pagosa Springs TV Association
Request for Waiver of FY 2003
Regulatory Fee and Late Fee
Fee Control No. RROG-07-00008875

Dear Mr. Spears:

This is in response to your letter filed on June 20, 2007 requesting waiver of the fiscal year (FY) 2003 regulatory fee and late penalty for translator station K10GO (Station), which is controlled by the Pagosa Springs TV Association (Association) of Pagosa Springs, Colorado.¹ Our records reflect that the FY 2003 regulatory fee and late penalty, which total \$456.25, have not been paid. As set forth below, we deny your request.

In your Letter, you state that the Station is no longer in service.² Specifically, you state that the TV translator was turned off and the tower at the Rock Ridge location was completely dismantled and removed in June 2005.³ You also state that the Association operates as a non-profit entity providing free TV services to the Town of Pagosa Springs and surrounding area in Archuleta County, Colorado.⁴ In support of your request, you attach, among other things, a letter to Commission staff containing more details concerning the Association's operation and a financial statement for stations K10GO and K08GM for the period covering January-December 2003.⁵

In implementing the regulatory fee program, the Commission stated that it would waive its regulatory fees for any community-based translator station upon a showing that the station:

¹ Letter from Will Spears, Pagosa Springs TV Association, to Managing Director, FCC (dated June 11, 2007) (Letter).

² Letter.

³ *Id.*, Attachment at 1 (Letter from Will Spears, Pagosa Springs TV Association, to Jacqueline Jones, FCC (dated Aug. 6, 2007)), 3 (Financial statement for K10GO and K08GM for Jan.-Dec. 2003).

⁴ Letter.

⁵ *Id.*, Attachment at 1, 3.

(1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from the members of the community served for support.⁶

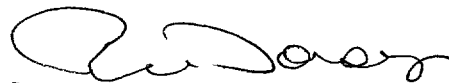
The licensee bears the burden of documenting its eligibility for the waiver; otherwise, the regulatory fee is due. *Id.* At the outset, your claim that the Station was shut down in June 2005 is not a ground for granting your waiver request because it appears that the Station still would have been operating during FY 2003, the time period at issue.

Your letter appears to meet criteria (2) and (3). It is not clear, however, whether criterion (1) is met. Therefore, at this time your request contains insufficient grounds to grant relief with respect to the FY 2003 fee for K10GO. You may file a further request for relief with respect to the FY 2003 fees together with a more complete showing, specifically demonstrating that criterion (1) has been met, together within 30 days from the date of this letter. To satisfy the first criterion, you must demonstrate that in FY 2003, the year in question, the translator was "not licensed to, in whole or in part, and [did] not have common ownership with the licensee of a commercial broadcast station."

If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Finally, Commission records indicate that the license for the Station expired in 2006 upon failure to file a renewal application, and that the Association has no further obligation to the Commission as to the Station's termination of service.

Sincerely,



 Mark Stephens
Chief Financial Officer

Copies to: Jim Brown
Hossein Hashemzadeh
FCC Media Bureau

⁶ *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759, 12761, para. 16 (1995).

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8875

JUN 20 2007

BY: _____

Pagosa Springs TV Association
P.O. Box 780
Pagosa Springs, CO 81147

June 11, 2007

FCC Managing Director
445 12th Street, Southwest
Washington, DC 20554

RR0G-07-00008875

RE: Account/Bill No. 04RE002455

Dear FCC Managing Director:

We have received the bill 04RE002455 from you and would like to request a waiver based on the fact that the Call Sign K10GO is no longer in service. The TV translator K10GO was turned off and the tower at that Rock Ridge location was completely dismantled and removed by a local subdivision homeowner group. We have no need for the call sign K10GO any more.

Please let us know if you are able to waive the \$456.25 fee as our funds are limited. Also, please let us know if this letter adequately serves as a complete closure for Call Sign K10GO.

By the way, the Pagosa Springs TV Association operates as a non-profit entity providing free TV services to the Town of Pagosa Springs and surrounding area in Archuleta County, Colorado. The services provided by the Pagosa Springs TV Association are translated from the Albuquerque, Durango and Farmington markets to our area that otherwise has no other free local television. The association currently maintains only one operational tower and it is located on Oak Brush Hill, seven miles south of Pagosa Springs.

Thank you very much for your assistance.

Sincerely,

Will Spears

Will Spears
President

8875

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
OCT 23 2007

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert
Counsel for Pittman Broadcasting
Services, LLC
2120 N. 21st Road
Arlington, VA 22201

Re: WOMN (AM), Franklinton, Louisiana
Request for Waiver and Refund of Fiscal Year 2007
Regulatory Fee
Fee Control No. RROG-07-00009689

Dear Mr. Alpert:

This is in response to your request for waiver of the Fiscal Year (FY) 2007 regulatory fee filed on behalf of Pittman Broadcasting Services, LLC, licensee of Station WOMN (AM) (WOMN), Franklinton, Louisiana.¹ You maintain that WOMN is currently dark.² Our records indicate that the regulatory fee in the amount of \$475 has not been paid. As indicated below, your request is granted.

In support of your request, you attach a letter dated May 18, 2007 from H. Taft Snowdon, Supervisory Attorney in the Audio Division of the Media Bureau, granting WOMN Special Temporary Authority (STA) to remain silent for a period not to exceed 180 days from May 18, 2007 (*i.e.*, until November 14, 2007).³

In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.

Our records indicate that WOMN has been dark since April 8, 2007. Thus, your request to waive WOMN's FY 2007 regulatory fee is granted.

¹ Waiver and Refund Request from Dan J. Alpert, Counsel for Pittman Broadcasting Services, LLC, filed September 20, 2007 (Request) at 1.

² *Id.*

³ Attachment to Request, Letter from H. Taft Snowdon granting STA, dated May 18, 2007 (Attachment) at 1.

Dan J. Alpert

2.

As a reminder, WOMN's STA notes that, as a matter of law, WOMN's license will automatically expire if broadcast operations do not commence within 12 months from the date that the station ceased broadcasting.⁴ See Section 312(g) of the Communications Act, 47 U.S.C. § 312(g). Therefore, this regulatory fee waiver applies only to FY 2007.

If you have any questions concerning this matter please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", written over a horizontal line.

Mark Stephens
Chief Financial Officer

⁴ *Id.* at 1-2.

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SFP 20 2007

Federal Communications Commission
Bureau / Office

The Law Office of

Dan J. Alpert

2120 N. 21st Rd.
Arlington, VA 22201
DJA@COMMLAW.TV

(703) 243-8690

(703) 243-8692 (FAX)

September 20, 2007

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

9689

**Re: Station WOMN(AM)
Franklinton, LA
Facility No. 22991**

Dear Mr. Fishel:

Pittman Broadcasting Services, LLC, by its attorney, hereby requests a waiver and refund of its 2007 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waivers of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

Pittman Broadcasting Services, LLC is licensee of Station WOMN(AM), Franklinton, Louisiana. The station currently is dark. See Attachment. Accordingly, a waiver of the 2007 Annual Regulatory Fee is appropriate.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,


Dan J. Alpert

Counsel for Pittman Broadcasting Services,
LLC

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 23 2007

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert
Counsel for Proctor-Williams, Inc.
2120 N. 21st Road
Arlington, VA 22201

Re: KSET (AM), Silsbee, Texas
Request for Waiver and Refund of Fiscal Year 2007
Regulatory Fee
Fee Control No. 0709199365899752

Dear Mr. Alpert:

This is in response to your request for waiver and refund of the Fiscal Year (FY) 2007 regulatory fee filed on behalf of Proctor-Williams, Inc., licensee of Station KSET (AM) (KSET), Silsbee, Texas.¹ You maintain that KSET is currently dark.² As indicated below, your request is granted.

In support of your request, you attach a letter dated September 14, 2007 from H. Taft Snowden, Supervisory Attorney of the Video Division of the Media Bureau, granting KSET Special Temporary Authority (STA) to remain silent until January 11, 2008.³

In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.

Our records indicate that KSET has been dark since January 11, 2007. Thus, your request to waive KSET's FY 2007 regulatory fee is granted. Further, our records indicate that we received a timely payment of KSET's FY 2007 regulatory fee on September 19, 2007. Accordingly, we will refund KSET's FY 2007 regulatory fee payment. We will forward a check in the amount of \$725.00 as soon as practicable.

¹ Waiver and Refund Request from Dan J. Alpert, Counsel for Proctor Williams, Inc., filed September 20, 2007 (Request) at 1.

² *Id.*

³ Attachment to Request, Letter from H. Taft Snowden granting STA, dated September 14, 2007 (Attachment) at 1.

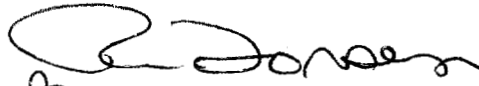
Dan J. Alpert

2.

As a reminder, KSET's STA notes that, as a matter of law, KSET's license will automatically expire if broadcast operations do not commence within 12 months from the date that the station ceased broadcasting.⁴ See Section 312(g) of the Communications Act, 47 U.S.C. § 312(g). Therefore, this regulatory fee waiver applies only to FY 2007.

If you have any questions concerning this matter please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", with a stylized flourish at the end.

Mark Stephens
Chief Financial Officer

⁴ *Id.* at 1-2.

0709199365899752

RECEIVED

The Law Office of

Dan J. Alpert

2007 SEP 25 P 12: 24

2120 N. 21st Rd.
Arlington, VA 22201
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(703) 243-8690

FINANCIAL OPERATIONS
CENTER

(703) 243-8692 (FAX)

September 19, 2007

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th St. S.W..
Washington, DC 20554

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SEP 20 2007

Federal Communications Commission
Bureau / Office

Re: **Station KSET(AM)**
Silsbee, TX
Facility No. 31108

Dear Mr. Fishel:

Proctor-Williams, Inc., by its attorney, hereby requests a waiver and refund of its 2007 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waivers of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

Proctor-Williams is licensee of Station KSET(AM), Silsbee, Texas. The station currently is dark. See Attachment. Accordingly, a waiver of the 2007 Annual Regulatory Fee is appropriate. A refund of the \$725.00 fee that was timely paid respectfully is requested.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

Counsel for Proctor-Williams, Inc.

Payment was received 09/19/07
AJ